

AMENDED IN SENATE APRIL 22, 2003

**SENATE BILL**

**No. 1009**

**Introduced by Senator Alpert**

February 21, 2003

---

---

~~An act to make an appropriation in augmentation of Items 9800-011-0001, 9800-001-0494, and 9800-001-0988 of Section 2.00 of the Budget Act of 2003, relating to state employees, to take effect immediately, as an appropriation for the usual and current expenses of the state. An act to amend Section 6487 of, and to add and repeal Sections 6452.1, 6487.3, and 18510 of, the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1009, as amended, Alpert. ~~State employees: compensation. Use tax collection: income tax forms.~~

*The Sales and Use Tax Law imposes a tax on the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property. Existing law requires retailers, as specified, to register with, and to obtain a seller's permit from, the State Board of Equalization. The State Board of Equalization issues forms for the computation and payment of sales and use taxes collected or owed by those retailers. There is no requirement for individuals, other than retailers, that owe use taxes to register with the State Board of Equalization. Consequently, those persons do not receive forms for the computation and payment of use taxes.*

*This bill would, for the period beginning on January 1, 2004, and ending on December 31, 2009, authorize an individual to make an irrevocable election to report qualified use tax, as defined, on that individual's California personal income tax form.*

*This bill would require the Franchise Tax Board to revise the personal income tax return to allow an individual to report and remit qualified use taxes to the Franchise Tax Board. This bill would require the Franchise Tax Board to remit the qualified use taxes collected, less the Franchise Tax Board's costs of administration, to the State Board of Equalization.*

*This bill would transfer the authority to collect the qualified use tax reported on an individual's personal income tax return to the Franchise Tax Board, and would authorize the Franchise Tax Board to impose applicable interest and penalties in the same manner as those penalties and interest are imposed under the Personal Income Tax Law.*

~~The annual Budget Act appropriates specified amounts from the General Fund, unallocated special funds, and unallocated nongovernmental cost funds for expenditure for state employee compensation.~~

~~This bill would appropriate an unspecified amount from the General Fund, unallocated special funds, and unallocated nongovernmental cost funds for expenditure during the 2003–04 fiscal year for state employee compensation in augmentation of specified items in the Budget Act of 2003, in accordance with agreements entered into by the state with State Bargaining Units 5, 6, and 8 and approved by the Legislature. This provision would become operative after the Budget Act of 2003 becomes effective.~~

~~This bill would declare that it is to take effect immediately as a statute providing an appropriation for the usual and current expenses of the state.~~

Vote:  $\frac{2}{3}$  majority. Appropriation: yes *no*. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1    ~~SECTION 1. The sum of \_\_\_\_\_ dollars (\$\_\_\_\_\_) is hereby~~
- 2    *SECTION 1. Section 6452.1 is added to the Revenue and*
- 3    *Taxation Code, to read:*
- 4    *6452.1. (a) Notwithstanding Sections 6451 and 7171, every*
- 5    *individual that purchases tangible personal property, the storage,*
- 6    *use, or other consumption of which is subject to qualified use tax,*
- 7    *as defined in subdivision (b), that is otherwise required to report*
- 8    *and remit that tax pursuant to this part, may elect to report and*
- 9    *remit qualified use tax on his or her California personal income tax*

1 return that is required to be filed pursuant to Article 1  
2 (commencing with Section 18501) of Chapter 2 of Part 10.2.

3 (b) (1) A taxpayer that reports his or her qualified use tax on  
4 the California personal income tax return is deemed to have made  
5 the election authorized by this section.

6 (2) (A) In the case of a married individual filing a separate  
7 California personal income return, an election may be made to  
8 report either one-half of the qualified use tax or the entire qualified  
9 use tax on his or her separate California personal income tax  
10 return.

11 (B) If an individual elects to report one-half of the qualified use  
12 tax, that election will not be binding with respect to the remaining  
13 one-half of the qualified use tax owed by that individual and that  
14 individual's spouse.

15 (c) An election to report qualified use tax on the California  
16 personal income tax return shall be irrevocable.

17 (d) For purposes of this section:

18 (1) "Individual" means any natural person.

19 (2) (A) "Qualified use tax" means the use tax imposed on the  
20 storage, use, or other consumption of tangible personal property,  
21 used exclusively for personal purposes within this state, that is  
22 brought into this state by an individual or that is shipped to an  
23 individual within this state by a retailer located outside of this  
24 state.

25 (B) "Qualified use tax" does not include:

26 (i) Use tax that applies to a mobilehome or a commercial coach  
27 that is required to be registered annually pursuant to the Health  
28 and Safety Code or use that applies to a vehicle subject to  
29 identification under Division 16.5 (commencing with Section  
30 38000) of the Vehicle Code.

31 (ii) Use tax imposed on a vessel or aircraft.

32 (iii) Use tax imposed on a lessee of tangible personal property.

33 (iv) Use tax imposed on an individual if that individual's use tax  
34 liability for the calendar year is four hundred dollars (\$400) or  
35 less.

36 (3) "Use tax" means the use tax imposed under the Sales and  
37 Use Tax law (commencing with Section 6001) of this part, the use  
38 tax imposed the Bradley-Burns Uniform Sales and Use tax Law  
39 (commencing with Section 7200), and the use tax imposed in

1 *accordance with Transactions and Use Tax Law (commencing with*  
2 *Section 7251).*

3 *(e) If an individual elects to report qualified use tax on his or*  
4 *her California personal income tax return, that individual shall*  
5 *comply with all of the following:*

6 *(1) The qualified use tax shall be reported on and remitted with*  
7 *his or her timely filed California personal income tax return.*

8 *(2) The qualified use tax shall be reported on and remitted with*  
9 *the California personal income return that is required to be filed*  
10 *for the taxable year in which the liability for the qualified use tax*  
11 *was incurred.*

12 *(f) (1) The responsibility and authority for the receipt and the*  
13 *collection of use tax reported as qualified use tax on an individual's*  
14 *California personal income tax return shall be transferred from the*  
15 *State Board of Equalization to the Franchise Tax Board.*

16 *(2) In lieu of the penalties and interest imposed under the Sales*  
17 *and Use Tax Law (commencing with Section 6001), the*  
18 *Bradley-Burns Uniform Sales and Use Tax Law (commencing with*  
19 *Section 7200), or the Transactions and Use Tax Law (commencing*  
20 *with Section 7251), the penalties and interest that apply to*  
21 *personal income taxes pursuant to Part 10.2 (commencing with*  
22 *Section 18401), shall apply to use tax reported as qualified use tax*  
23 *on an individual's California personal income tax return in the*  
24 *same amounts and manner as those penalties and interest apply to*  
25 *personal income tax.*

26 *(3) Notwithstanding paragraphs (1) and (2), any claims for*  
27 *refunds or credits of any use tax reported as qualified use tax on*  
28 *the California personal income tax return shall be made in*  
29 *accordance with Chapter 7 (commencing with Section 6901) of*  
30 *this part.*

31 *(g) Notwithstanding an individual's election to remit and to*  
32 *report qualified use tax on the California personal income form,*  
33 *the State Board of Equalization is not precluded from making any*  
34 *determinations for understatements of qualified use tax against*  
35 *that individual in accordance with Part 5 (commencing with*  
36 *Section 6451).*

37 *(h) In the event the remittance of an individual that elects to*  
38 *report qualified use tax on his or her California personal income*  
39 *tax return is insufficient to satisfy the combined personal income*

1 *tax and qualified use tax liability of that individual, the amount*  
2 *remitted shall be applied in the following order:*

3 *(1) Taxes imposed under Part 10 (commencing with Section*  
4 *17001).*

5 *(2) Penalties and interest, if any, imposed under Part 10.2*  
6 *(commencing with Section 18041).*

7 *(3) Qualified use tax reported on that individual's California*  
8 *personal income tax return in accordance with this section.*

9 *(i) (1) This section applies to purchases of tangible personal*  
10 *property made on or after January 1, 2004, and on or before*  
11 *December 31, 2009, and as of that date is repealed unless a later*  
12 *enacted statute extends the repeal date.*

13 *(2) Notwithstanding the repeal of this section, any provisions*  
14 *in this section or Section 18510 relating to collection activities*  
15 *attributable to qualified use taxes reported prior to the repeal date*  
16 *of this section shall continue in the same manner as if this section*  
17 *were still in effect.*

18 *SEC. 2. Section 6487 of the Revenue and Taxation Code is*  
19 *amended to read:*

20 *6487. (a) For taxpayers filing returns, other than a return*  
21 *filed pursuant to Section 6452.1, on other than an annual basis,*  
22 *except in the case of fraud, intent to evade this part or authorized*  
23 *rules and regulations, or failure to make a return, every notice of*  
24 *a deficiency determination shall be mailed within three years after*  
25 *the last day of the calendar month following the quarterly period*  
26 *for which the amount is proposed to be determined or within three*  
27 *years after the return is filed, whichever period expires the later.*  
28 *In the case of failure to make a return, every notice of*  
29 *determination shall be mailed within eight years after the last day*  
30 *of the calendar month following the quarterly period for which the*  
31 *amount is proposed to be determined.*

32 *(b) For taxpayers filing returns on an annual basis, except in the*  
33 *case of fraud, intent to evade this part or authorized rules and*  
34 *regulations, or failure to make a return, every notice of a*  
35 *deficiency determination shall be mailed within three years after*  
36 *the last day of the calendar month following the one-year period*  
37 *for which the amount is proposed to be determined or within three*  
38 *years after the return is filed, whichever period expires the later.*  
39 *In the case of failure to make a return, every notice of*  
40 *determination shall be mailed within eight years after the last day*

1 of the calendar month following the one-year period for which the  
2 amount is proposed to be determined.

3 (c) The limitation specified in this section does not apply in  
4 case of a sales tax proposed to be determined with respect to sales  
5 of property for the storage, use, or other consumption of which  
6 notice of a deficiency determination has been or is given pursuant  
7 to subdivision (a) or (b) or pursuant to Section 6486, 6515, or  
8 6536. The limitation specified in this section does not apply in case  
9 of an amount of use tax proposed to be determined with respect to  
10 storage, use, or other consumption of property for the sale of which  
11 notice of a deficiency determination has been or is given pursuant  
12 to subdivision (a) or (b) or pursuant to Section 6486, 6515, or  
13 6536.

14 SEC. 3. *Section 6487.3 is added to the Revenue and Taxation*  
15 *Code, to read:*

16 6487.3. (a) (1) *For individuals that elect to report qualified*  
17 *use tax in accordance with Section 6452.1, except in the case of*  
18 *fraud, intent to avoid this part or authorized rules and regulations*  
19 *issued by the board, or the gross understatement of qualified use*  
20 *taxes, every notice of a deficiency determination with respect to the*  
21 *qualified use tax shall be mailed within three years after the last*  
22 *day for which the California personal income tax return is due or*  
23 *filed, whichever occurs later.*

24 (2) *In the case of a gross understatement of qualified use tax,*  
25 *every notice of a deficiency determination with respect to the*  
26 *qualified use tax shall be mailed within six years after the last day*  
27 *for which the California personal income tax return is due or filed,*  
28 *whichever occurs later.*

29 (3) *For purposes of this subdivision a “gross understatement of*  
30 *qualified used tax” is a deficiency that is in excess of 25 percent*  
31 *of the amount of qualified use tax reported on an individual’s*  
32 *California personal income tax return. In the case of married*  
33 *individuals filing separate California personal income tax returns,*  
34 *the total amount of qualified use tax reported will be considered*  
35 *in determining whether there is a gross understatement of qualified*  
36 *use tax.*

37 (b) *This section be operative on January 1, 2004, and shall*  
38 *remain operative until December 31, 2009, and as of that date is*  
39 *repealed unless a later enacted statute extends the repeal date.*



1 SEC. 4. Section 18510 is added to the Revenue and Taxation  
2 Code, to read:

3 18510. (a) The Franchise Tax Board shall, revise the  
4 personal income tax return, in a form and manner approved by the  
5 State Board of Equalization, to allow an individual to report and  
6 remit qualified use tax in accordance with the provisions of Section  
7 6452.1.

8 (b) (1) The responsibility and authority for the receipt and the  
9 collection of use tax reported as qualified use tax on an individual's  
10 personal income tax return pursuant to Section 6452.1 shall be  
11 transferred from the State Board of Equalization to the Franchise  
12 Tax Board.

13 (2) In lieu of the penalties and interest imposed under the Sales  
14 and Use Tax Law (commencing with Section 6001), the  
15 Bradley-Burns Uniform Sales and Use Tax Law (commencing with  
16 Section 7200), or the Transactions and Use Tax Law (commencing  
17 with Section 7251), the penalties and interest that apply to  
18 personal income taxes pursuant to this part, shall apply to use tax  
19 reported as qualified use tax on an individual's California  
20 personal income tax return in the same amounts and manner as  
21 those penalties and interest apply to personal income tax.

22 (c) In the event the remittance of an individual that elects to  
23 report qualified use tax on his or her personal income tax return  
24 is insufficient to satisfy the combined personal income tax and  
25 qualified use tax liability of that individual, the amount remitted  
26 shall be applied in the following order:

27 (1) Taxes imposed under Part 10 (commencing with Section  
28 17001).

29 (2) Penalties and interest, if any, imposed under this part.

30 (3) Qualified use tax as reported on that individual's California  
31 personal income tax return, in accordance with Section 6452.1.

32 (d) The Franchise Tax Board shall remit the qualified use tax  
33 and any applicable interest and penalties collected pursuant to  
34 Section 6452.1, less the Franchise Tax Board's costs of  
35 administration, to the State Board of Equalization within 60 days  
36 from the date the use tax is received.

37 (e) This section shall be operative for taxable years beginning  
38 on and after January 1, 2004, and ending on or before December  
39 31, 2009, and as of that date is repealed unless a later enacted  
40 statute extends the repeal date.

1 ~~appropriated from the General Fund, unallocated special funds,~~  
2 ~~and unallocated nongovernmental cost funds for expenditure~~  
3 ~~during the 2003-04 fiscal year in augmentation of, and for the~~  
4 ~~purposes of state employee compensation as provided in Items~~  
5 ~~9800-011-0001, 9800-001-0494, and 9800-001-0988 of Section~~  
6 ~~2.00 of the Budget Act of 2003, in accordance with agreements~~  
7 ~~entered into by the state with State Bargaining Units 5, 6, and 8 and~~  
8 ~~approved by the Legislature.~~

9 ~~SEC. 2. Section 1 of this act shall become operative after the~~  
10 ~~Budget Act of 2003 becomes effective.~~

11 ~~SEC. 3. This act makes an appropriation for the usual current~~  
12 ~~expenses of the state within the meaning of Article IV of the~~  
13 ~~Constitution and shall go into immediate effect.~~

